IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 1022 of 2006
In SPECIAL CIVIL APPLICATION No. 17282 of 2006
With
CIVIL APPLICATION No. 9569 of 2006
In LETTERS PATENT APPEAL No. 1022 of 2006

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT
HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JASVANTSINH BHAVANSINH RATHOD & 8 - Appellant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR PARESH UPADHYAY for Appellant(s) : 1 - 9.
MR UDAY BHATT, AGP for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

and

HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 01/09/2006

ORAL JUDGMENT

(Per : HONOURABLE MS. JUSTICE R.M.DOSHIT)

Heard the learned advocates.

ADMIT. Mr.Bhatt waives service.

With the consent of the learned advocates the Appeal is heard and disposed of today.

The appellants before this Court are the writ petitioners in above Special Civil Application No.17282/2006. The appellants challenge the order dated 14th August, 2006 made by the learned Single Judge refusing interim relief pending the writ petition.

Mr.Upadhyay has submitted that the question is that of the appellants' eligibility for taking the departmental examination for further promotion to the post of Police Sub-Inspector. He admits that the appellants are age-barred and are not eligible for taking the aforesaid examination. Nevertheless, it is

the case of the appellants that several candidates who are otherwise age-barred have been permitted to take the examination by several orders made by this Court. A similar treatment ought to have been granted to the present appellants.

It is agreed by the learned advocates that the examination is scheduled on 9th September, 2006. It is also agreed that as many as 50 candidates who are otherwise age-barred are permitted to take the examination under the orders of the Court. We do not consider it appropriate to discriminate the present appellants and not to grant relief granted to the other candidates.

In above view of the matter, the Appeal is allowed to the extent that the appellants be allowed to appear at the examination for further promotion to the post of Police Sub-Inspector scheduled on 9th September, 2006.

It is clarified that this order is made subject to the result of the writ petition. The appellants'

taking the said examination shall not create equity in their favour. The result of the appellants will not be declared without the express order of the learned Single Judge before whom the writ petition is pending. The parties to the writ petition shall conduct the hearing of the writ petition as and when taken-up without asking for a single adjournment.

The Appeal is allowed in the above terms. Civil Application is disposed of.

(Ms. R.M.Doshit, J.) **(Harsha Devani, J.)**

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